EXECUTIVE SUMMARY

Maryland's 2006 TMDL Implementation Guidance for Local Governments is comprised of six parts: Background, General Guidance, Technical Guidance, Additional Guidance, a set of Appendices, and a sample "TMDL Implementation Framework" document. An Index is included to support its use as a reference document. The Guidance is also being provided in an electronic form allowing users to search for key terms.

The "Background" section, with detailed information on water quality standards, designated uses, monitoring, assessment, and TMDL development, will provide a foundation of shared knowledge. For example, people responsible for TMDL implementation should recognize that TMDLs could be developed at different geographic scales. The Guidance references two: highly localized impairments defined at the scale of small non-tidal streams, and downstream impairments to which many sources contribute from a larger watershed.

The State and federal government bear many of the formal responsibilities for TMDL implementation; however, local governments will want the capacity to make informed policy decisions and to manage relevant programs. Regardless of who is held legally responsible for ensuring consistency with TMDLs, the repercussions of falling short would be felt at the local level. Consequently, local governments have a strong incentive to acquire the capacity to develop and execute implementation policies and procedures.

The Guidance emphasizes the need to institutionalize TMDL implementation within the routine operations of existing programs, and initiates a joint State and local exploration of management methods that are cost-effective, minimally disruptive to economic development and administratively tractable. Section 3.1, "Guidance for Local Policymakers," urges local governments to begin building technical, financial and administrative capacity in anticipation of the challenges that lie ahead.

The "General Guidance" recommends two near-term steps for local governments to take: 1) identify a multi-agency TMDL implementation coordinating committee to help formulate policies and procedures, serve as liaison for dialogue with the State, and begin enhancing capacity; and 2) draft a "TMDL Implementation Framework" document that describes local agency roles, policies and procedures. This framework document is intended to provide a common point of reference for a complex multi-agency endeavor. A template of the framework document, in the form of a word-processing file, is being made available as a supplement to this Guidance.

The "Technical Guidance" is organized to address the two basic aspects of TMDL implementation: 1) reducing excess pollutant loads, and 2) offsetting new loads. Maryland's antidegradation policy, which protects high-quality waters from negative impacts, is also addressed. Although the Guidance is not a "How To" manual on developing TMDL implementation plans, it outlines the State's current thinking on the subject, and applicable implementation planning manuals and procedures for estimating nonpoint source reductions.

The Guidance recommends that local governments immediately work within the context of the Tributary Strategy process to address nutrient TMDLs. During 2006, the State-wide Tributary Strategy implementation plan will be refined to address the ten major basins in Maryland that drain to the Chesapeake Bay. In time, these plans will be refined further. The State is developing tools for general use, which will simplify and standardize nutrient load reduction analyses.

Offsetting future loads is already being done in Maryland, as the following tangible instances demonstrate: 1) stormwater retrofit requirements for redevelopment; 2) the State's nutrient cap management strategy for point sources; 3) the "10% Rule" for pollutant reductions under the State Critical Areas law; 4) State policy on offsetting increased loads from development expressed in guidance for implementing the 1992 Planning Act; and 5) no-net-loss wetlands mitigation programs.

The Maryland Department of the Environment (MDE) is actively pursuing a comprehensive nutrient offset policy. The State is presently managing point sources with the nutrient cap management strategy. A hypothetical example of a comprehensive offset analysis for a watershed is provided in Appendix F.

The "Additional Guidance" section discusses tracking, assessment, and land use planning issues. Tracking is central to accounting for the reduction and offsetting of new loads. Local governments are encouraged to continue tracking pollution control activities associated with current programs in order to document credit toward TMDL implementation. The Guidance also advises tracking changes in natural land cover, such as forest and wetlands, as well as impervious cover and new pollutant sources. Monitoring is critical to evaluating TMDL implementation, because progress is ultimately determined by assessing water quality. The State is responsible for identifying impaired waters and evaluating progress. Local governments or other regulated entities may conduct additional monitoring to document the effectiveness of innovative projects, or supplement State monitoring.

Land use planning (the continuum of comprehensive, functional, infrastructure, and site planning) will play a role in TMDL implementation. Innovative land use planning techniques that anticipate the effects of land use changes on pollutant loads are strongly encouraged. This will help optimize consumption of the limited nonpoint source load allocation, and minimize the administrative burden of offsetting new loads on a project-by-project basis.

It is important for local governments to interface with agricultural agencies. In many jurisdictions agriculture is central to the local economy and a critical component of pollution loads. Support for rural residential communities, and ensuring that water quality protection decisions are balanced with respect to sustaining the rural economy, are important considerations.

Case studies are provided to illustrate opportunities and offer technical insights. They also encourage contact and dialogue among professionals. One case involves land use planning in which the percentage of impervious cover is quantified and maintained within a range of 10%-15%. Although the example is not tied directly to a TMDL, the quantitative nature of the

analysis exemplifies how land use planning should be conducted relative to TMDLs. A second case study describes a nutrient TMDL considered in the context of a county land use planning process. As the Guidance evolves, additional case studies will be collected and shared.

In summary, this Guidance provides background and interim direction to help local governments position themselves to address the paradigm shift associated with implementing TMDLs. It will serve as a guiding framework over the coming year as the State continues to engage local governments in evaluating and adopting a variety of new operational procedures. It will also serve as the repository for documenting refinements to these rapidly evolving procedures.